

EXHIBIT 5

Hearing

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

PHILLIPS, L.G., LCD CO., LTD,)
Plaintiffs,) C.A. No. 04-343 (JJF)
v.)
TATUNG CO., TATUNG COMPANY OF)
AMERICA, INC., and VIEWSONIC)
CORPORATION,)
Defendants.)

Hearing of above matter taken pursuant to notice before Renee A. Meyers, Registered Professional Reporter and Notary Public, in the law offices of BLANK ROME, LLP, 1201 North Market Street, Wilmington, Delaware, on Thursday, December 28, 2006, beginning at approximately 11:30 p.m., there being present:

BEFORE: VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

THE BAYARD FIRM
RICHARD D. KIRK, ESQ.
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for Plaintiffs

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<p>1 not trying to be a jerk about this. On the other hand --</p> <p>2 SPECIAL MASTER POPPITI: I am not</p> <p>3 suggesting that you would be. If --</p> <p>4 MR. MILLER: I am not inclined to, at</p> <p>5 this instance, to extend ourselves to try to prepare</p> <p>6 summaries for these documents that have been available</p> <p>7 for an extended period of time which we have spent</p> <p>8 substantial resources to get to today on.</p> <p>9 SPECIAL MASTER POPPITI: That answers my</p> <p>10 question. And I don't have the authority to require that</p> <p>11 you create something that isn't in the -- that doesn't</p> <p>12 exist and you don't do in the ordinary course of</p> <p>13 business.</p> <p>14 If you choose, at some point, to provide</p> <p>15 that professional courtesy, it would be a nice thing to</p> <p>16 do, but having heard what I have heard, it sounds to me</p> <p>17 like the only thing I should, perhaps, listen to is an</p> <p>18 agreement, and this is managing discovery, if you will,</p> <p>19 as opposed to making a decision, because I don't think I</p> <p>20 need to make a decision here, there was a request, the</p> <p>21 information is available. I'd like to hear when that</p> <p>22 information would be available for inspection and where.</p> <p>23 MR. MILLER: It's maintained in</p> <p>24 California at an off-site storage facility and we</p>	<p>1 by sending copies to counsel. And, so, our preference</p> <p>2 will be, obviously, for that same practice to continue</p> <p>3 rather than going out to do an inspection at a warehouse.</p> <p>4 We would prefer that we continue the same practice of</p> <p>5 exchanging documents by copying.</p> <p>6 SPECIAL MASTER POPPITI: Well, again,</p> <p>7 it's a courtesy that they have provided. Mr. Miller? I</p> <p>8 don't know the universe of documents in terms of numbers</p> <p>9 that are involved.</p> <p>10 MR. MILLER: It's a high -- it's a very</p> <p>11 high number of boxes of documents, and our discussions</p> <p>12 have always been, So long as the documents are not quite</p> <p>13 voluminous, we would extend that courtesy, but we have</p> <p>14 made clear, since the beginning, that we are not doing it</p> <p>15 as to these given the volume of materials.</p> <p>16 SPECIAL MASTER POPPITI: All right.</p> <p>17 Well, then, the inspection will take place on the site</p> <p>18 that you have identified.</p> <p>19 What I would like you to do is work out</p> <p>20 the detail and provide me with what that detail is not</p> <p>21 later than -- if this -- if this makes sense to all of</p> <p>22 you, Friday of next week, which is -- actually, we will</p> <p>23 do Monday of next week, I am not in the office on Friday</p> <p>24 -- I am sorry, Monday, the 8th, January 8th of 2007.</p>
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<p>1 probably need -- well, my client is closed this week, but</p> <p>2 I probably need, you know, three or four days, you know,</p> <p>3 preferably a week advanced notice and I can start making</p> <p>4 the documents available.</p> <p>5 SPECIAL MASTER POPPITI:</p> <p>6 Mr. Christenson.</p> <p>7 MR. CHRISTENSON: As I recall, there</p> <p>8 were some limitations imposed on the production, I think,</p> <p>9 for example, there was an intention to redact some</p> <p>10 information before making those documents available, and</p> <p>11 so, it would be helpful for me to know if there are going</p> <p>12 to be any limitations such as that imposed.</p> <p>13 SPECIAL MASTER POPPITI: Mr. Miller.</p> <p>14 MR. MILLER: Excuse me, your Honor. No,</p> <p>15 I don't believe so. I mean, they will be in the state in</p> <p>16 which they are maintained. I don't understand that there</p> <p>17 is any privileged materials. They are, obviously,</p> <p>18 confidential materials. But we will do a quick spot</p> <p>19 check to make sure there is nothing privileged, but other</p> <p>20 than that, we would not intend to try to redact any</p> <p>21 information out of them.</p> <p>22 MR. CHRISTENSON: The only other comment</p> <p>23 I have on this, your Honor, is that all of the documents</p> <p>24 that the parties have produced to date have been produced</p>	<p>1 MR. MILLER: Very well, your Honor.</p> <p>2 MR. CHRISTENSON: Thank you, Your Honor.</p> <p>3 SPECIAL MASTER POPPITI: Thank you.</p> <p>4 MR. CHRISTENSON: Your Honor, if I may</p> <p>5 continue --</p> <p>6 SPECIAL MASTER POPPITI: Yeah.</p> <p>7 MR. CHRISTENSON: -- discussing what we</p> <p>8 think is missing from the production with respect to</p> <p>9 sales --</p> <p>10 SPECIAL MASTER POPPITI: Okay.</p> <p>11 MR. CHRISTENSON: -- information?</p> <p>12 In our review of the summaries that we</p> <p>13 have received from Viewsonic, it appears to us that the</p> <p>14 summaries do not include all of the relevant products,</p> <p>15 and just by way of example, there appear to be a product</p> <p>16 specifically accused of infringement that are not</p> <p>17 reflected in the sales summaries, and I can identify a</p> <p>18 few. They would include the VA 503 B, the VG 2021 M, the</p> <p>19 VX 924, the VG 920, the VP 2030 B, and the VP 930 B.</p> <p>20 Our concern is, again, it goes to the</p> <p>21 completeness of the information that we have. We do have</p> <p>22 summaries for certain time periods and for certain</p> <p>23 products, but the summaries do not appear to include all</p> <p>24 of the relevant products.</p>

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<p>1 when all of that occurs.</p> <p>2 I don't hear Mr. Miller saying that they</p> <p>3 are not going to make these available.</p> <p>4 MR. AMBROZY: Again, Your Honor, and I</p> <p>5 agree that they are not -- that he shouldn't be ordered</p> <p>6 to produce something that he cannot produce.</p> <p>7 SPECIAL MASTER POPPITI: Right.</p> <p>8 MR. AMBROZY: But getting back to our</p> <p>9 point, and I understand we will get back to the Jean, but</p> <p>10 that does make those documents the best available</p> <p>11 evidence of the monitors that were previously sold.</p> <p>12 SPECIAL MASTER POPPITI: It may be. But</p> <p>13 I want to focus on the hardware, if you will, and I would</p> <p>14 just like a representation from the both of you as to</p> <p>15 when you can expect there will be some resolution to the</p> <p>16 process of what exists, new product that will be</p> <p>17 purchased, old product that will either be inspected or</p> <p>18 purchased, and a representation by Mr. Miller that that</p> <p>19 does constitute the universe of expected -- of available</p> <p>20 product.</p> <p>21 MR. MILLER: Your Honor, I am happy to</p> <p>22 do that with dispassion. I can only make so many demands</p> <p>23 on my client in terms of the things we have agreed to for</p> <p>24 the 19th.</p>	<p>1 dinosaurs that are ours.</p> <p>2 SPECIAL MASTER POPPITI: Right.</p> <p>3 MR. MILLER: And are in our facilities.</p> <p>4 SPECIAL MASTER POPPITI: Is the date of</p> <p>5 the 26th doable?</p> <p>6 MR. AMBROZY: Just to clarify, Your</p> <p>7 Honor, when Mr. Miller says that he is looking at</p> <p>8 Viewsonic, does that include Viewsonic -- I am not sure</p> <p>9 of the proper name, Scott -- but Viewsonic America or the</p> <p>10 other entities of Viewsonic?</p> <p>11 MR. MILLER: I would be looking at</p> <p>12 Viewsonic America, which would be the only place I would</p> <p>13 expect to find the U.S. products. I mean, if we are</p> <p>14 going to expand this to overseas, it's going to take</p> <p>15 substantially longer.</p> <p>16 MR. AMBROZY: We will start with the</p> <p>17 U.S. products, but that brings, Your Honor, brings us to</p> <p>18 another point --</p> <p>19 SPECIAL MASTER POPPITI: No new points.</p> <p>20 We will keep it to what was asked for. I will look at</p> <p>21 the document that you are going to provide to me over the</p> <p>22 break, and if it becomes an issue that is looking</p> <p>23 overseas, we can join that issue at some other point.</p> <p>24 MR. MILLER: Your Honor, as to the 26th,</p>
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<p>1 This is going to be a, you know, a</p> <p>2 looking around for dinosaur kind of project. It's not</p> <p>3 going to be that straightforward. I am going to need</p> <p>4 some time, I would think, you know, until the end of</p> <p>5 January, perhaps, to get that list assembled. I mean,</p> <p>6 the products that are available for purchase obviously</p> <p>7 are on our web site and they can get those at any time</p> <p>8 they choose.</p> <p>9 SPECIAL MASTER POPPITI: And those that</p> <p>10 are available for purchase and if they are on the web</p> <p>11 site, that can be done right away.</p> <p>12 To search for dinosaurs, I mean, how</p> <p>13 many are we -- how many exist? Any idea?</p> <p>14 MR. MILLER: There is 216 products</p> <p>15 listed on our list, and we are looking through a, you</p> <p>16 know, five or 600,000 foot facility, which is warehouse</p> <p>17 and office and it may be on somebody's desk, that we are</p> <p>18 going to have to try to locate some of these things. So</p> <p>19 it's not a -- it's not just an easy task, I don't</p> <p>20 believe.</p> <p>21 SPECIAL MASTER POPPITI: And are we</p> <p>22 talking about dinosaurs that are yours or dinosaurs that</p> <p>23 may be in the possession of the OEMs?</p> <p>24 MR. MILLER: No. We are talking about</p>	<p>1 could I ask for the 29th to give me another weekend, if</p> <p>2 necessary, to scrounge around, please?</p> <p>3 SPECIAL MASTER POPPITI: 29th is fine.</p> <p>4 Okay. We are just about at 1:30. Did that finish that</p> <p>5 particular application?</p> <p>6 MR. AMBROZY: The only issue remaining,</p> <p>7 Your Honor, was the fact of the limitation to U.S. sales</p> <p>8 which we think is improper.</p> <p>9 We believe that our discovery should be</p> <p>10 responded to to include monitors that are imported to the</p> <p>11 U.S. as well as monitors that might go to Mexico, are</p> <p>12 assembled or put under a different brand name and then</p> <p>13 make their way into the United States. So just limiting</p> <p>14 the search to just monitors that are imported by</p> <p>15 Viewsonic into the United States, we think, is too</p> <p>16 narrow.</p> <p>17 SPECIAL MASTER POPPITI: Mr. Miller.</p> <p>18 MR. MILLER: I think we have retrenched</p> <p>19 to the motion I thought we had finished which was the</p> <p>20 information about sales. This was technical documents</p> <p>21 and those sorts of things.</p> <p>22 Is that what you are doing, Rel?</p> <p>23 MR. AMBROZY: No. I am trying to get</p> <p>before his Honor the proper scope of the requests, which</p>